

Message Text

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ACTION NEA-10

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R 170538Z AUG 78
FM AMEMBASSY KABUL
TO SECSTATE WASHDC 9599
INFO AMEMBASSY ANKARA
AMEMBASSY DACCA
AMEMBASSY ISLAMABAD
AMEMBASSY MOSCOW
AMEMBASSY NEW DELHI
AMEMBASSY TEHRAN

C O N F I D E N T I A L SECTION 1 OF 2 KABUL 6659

E.O. 11652: GDS
TAGS: SHUM, PINT, PGOV, AF
SUBJECT: AFGHAN GOVERNMENT'S PRISONER AMNESTY PROGRAM MAY BE
COMPLETED: AS MANY AS 7,000 MAY HAVE BEEN RELEASED

REF: KABUL 6281

1. SUMMARY: A MINISTRY OF JUSTICE ANNOUNCEMENT OF
AUGUST 11 THAT 11,646 LEGAL CASES HAD BEEN PROCESSED
UNDER THE REGIME'S "PRISONER AMNESTY" CAMPAIGN COULD
INDICATE THAT THIS INITIAL PHASE OF THE GOVERNMENT'S
OVERALL JUDICIAL REFORM PROGRAM IS NOW COMPLETED.
ACCORDING TO OFFICIAL GOVERNMENT SPOKESMEN, MORE
THAN 5,000, AND PERHAPS AS MANY AS 7,000 PRISONERS
WERE RELEASED UNDER THIS PROGRAM, AND ABOUT AS MANY
OTHERS HAD THEIR SENTENCES REDUCED BY VARIOUS DEGREES
(REFTEL). THE PROGRAM WAS OSTENSIBLY MOTIVATED BY
OFFICIAL HUMANITARIAN CONCERN TO RECTIFY THE "EVILS"
OF THE JUDICIAL SYSTEMS OF PAST AFGHAN REGIMES,
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ALTHOUGH SOME MORE CYNICAL OBSERVERS BELIEVE THAT
THIS GOVERNMENT WAS MERELY MAKING ROOM FOR ITS
OWN POLITICAL PRISONERS AND "ENEMIES OF THE REVOLU-
TION." THE AMNESTY PROGRAM PROBABLY DID NOT
INCLUDE ANY POLITICAL PRISONERS OF THE DAOUD
REGIME NOR OF THIS ONE, AND THE STATUS OF THE
SEVERAL HUNDRED MEMBERS OF THE FORMER FULING

FAMILIES BEING HELD JUST OUTSIDE KABUL REMAINS UNCERTAIN. NEVERTHELESS, JUDICIAL REFORM CONSTITUTES AN ESSENTIAL INGREDIENT OF THE GOVERNMENT'S OVERALL PROGRAM, AND THIS INITIAL EFFORT CONSTITUTES A SIGNIFICANT STEP ALONG THIS PATH, AND ONE WITH IMPORTANT IMPLICATIONS FROM THE HUMAN RIGHTS POINT OF VIEW. FURTHER JUDICIAL REFORMS HAVE BEEN PROMISED, AND THEIR SUCCESSFUL ADOPTION COULD PROVE AN IMPORTANT FACTOR IN DETERMINING THE EXTENT OF THE EVENTUAL SUPPORT WHICH THIS REGIME CAN BUILD AMONG THE MASSES OF THE AFGHAN PEOPLE. END OF SUMMARY.

2. THE BEGINNINGS OF THE PROGRAM: THE REGIME LAUNCHED THIS PARTICULAR ELEMENT OF ITS JUDICIAL REFORM PROGRAM WITH AN ANNOUNCEMENT ON MAY 14 THAT SPECIAL COMMITTEES HAD BEEN APPOINTED TO INSPECT PRISON CONDITIONS AND TO IMPROVE THE PRISONERS' WELL-BEING. THESE COMMITTEES WERE COMPOSED OF REPRESENTATIVES FROM THE MINISTRIES OF JUSTICE AND INTERIOR, AND INCLUDED "ONE PATRIOTIC, INFORMED MEMBER" (PRESUMABLY A TRUSTED PARTY MEMBER WHO PROVIDED THE NECESSARY POLITICAL GUIDANCE TO THE PROGRAM). IN ADDITION TO THE EXAMINATION OF THE CONDITIONS OF THE PRISONS THEMSELVES, THE COMMITTEES' MANDATE WAS TO PROPOSE AMNESTY OR REDUCTIONS IN SENTENCES FOR THE "ILL, POOR, OLD, INFIRM, OR

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THOSE RESPONSIBLE FOR THE SUPPORT OF LARGE FAMILIES." QUESTIONS OF REHABILITATION AND REEDUCATION WERE ALSO TO BE ADDRESSED BY THESE COMMITTEES.

3. ACCORDING TO MINISTER OF JUSTICE ABDUL HAKIM SHARAEI JAUSJANI (REFTEL) AND DEPUTY MINISTER MOHAMMAD AKRAM ABQARI, THE NEW REGIME'S REPRESENTATIVES DISCOVERED DEPLORABLE CONDITIONS IN THE COUNTRY'S PRISONS, INCLUDING SEVERE OVERCROWDING, COMPLETELY UNSANITARY FACILITIES, AND AN ABSOLUTE LACK OF MEDICAL SERVICES. MOREOVER, THESE OFFICIALS HAVE ASSERTED THAT, BECAUSE OF THE PREVIOUS GOVERNMENT'S CORRUPTION, INEFFICIENCY, OR DESPOTIC POLICIES, MANY PRISONERS HAD BEEN UNJUSTLY SENTENCED TO EXCESSIVE PRISON TERMS FOR MINOR OFFENSES, OR HAD BEEN LEFT TO LANGUISH IN JAIL FOR MONTHS OR YEARS BEYOND THE EXPIRATION OF THEIR SENTENCES. ADDITIONALLY, AN ALLEGED BACKLOG OF MORE THAN 6,000 PENDING CASES HAD FORCED MANY PRISONERS TO SUFFER IN PRISON EVEN THOUGH THEY HAD NOT BEEN CONVICTED OF ANY CRIME. IN THIS REGARD, A JUSTICE MINISTRY ANNOUNCEMENT OF MAY 16 ESTIMATED THAT ABOUT 25,000 PEOPLE MAY HAVE BEEN WAITING IN JAILS FOR THEIR CASES TO BE RE-

SOLVED BY THE PREVIOUS REGIME'S JUDICIARY SYSTEM.
AS A RESULT OF THESE INITIAL IMPRESSIONS, AND,
ACCORDING TO DEPUTY MINISTER ABQARI, BASED ON
"HUMANITARIAN GROUNDS," THE NEW REVOLUTIONARY
REGIME PROCEEDED PROMPTLY TO RECTIFY THIS SITUATION.

4. IMPLEMENTATION: THE FIRST STEP IN IMPLEMENTING
DECISIONS OF THE REGIME'S SPECIAL COMMITTEES WAS
TAKEN ON JUNE 22 IN KABUL WHEN ABOUT 1,000 INMATES
OF THE CITY'S INFAMOUS DEHMAZANG PRISON WERE SET
FREE IN A HEAVILY PUBLICIZED CEREMONY PRESIDED OVER
TO DEPUTY PRIME MINISTER AND FOREIGN MINISTER HAFIZULLAH
AMIN (KABUL 5175). OVER ABOUT THE NEXT SIX WEEKS, THE
AFGHAN MEDIA CARRIED VIRTUALLY DAILY ANNOUNCEMENTS THAT
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C O N F I D E N T I A L SECTION 2 OF 2 KABUL 6659

VARYING NUMBERS OF PRISONERS HAD BEEN RELEASED IN
VARIOUS PARTS OF THE COUNTRY, AND THAT MANY OTHERS
HAD HAD THEIR SENTENCES REDUCED. ACCORDING TO MINISTER
JAUZJANI, THOSE RELEASED WERE, IN GENERAL, PRISONERS WHO

HAD NEVER BEEN CONVICTED, THOSE WHO HAD COMMITTED VERY PETTY OFFENSES, AND ALL PRISONERS OVER THE AGE OF 60 OR SUFFERING AN INCURABLE DISEASE. CRITERIA USED FOR REDUCING SENTENCES WERE THAT LIFE SENTENCES WERE REDUCED TO 15-16 YEARS AND 15-YEAR SENTENCES WERE REDUCED TO 8-10 YEARS. ONE BIZARRE FOOTNOTE TO THIS CAMPAIGN WAS THE STANDARD PRACTICE THAT THE PRISONERS' DOSSIERS WOULD BE THROWN INTO A LARGE BONFIRE BY THE PRESIDING OFFICIAL AT THE CELEBRATION (OFTEN A CABINET MEMBER OR PROVINCIAL GOVERNOR), PRESUMABLY TO ILLUSTRATE THE PRISONERS' COMPLETE BREAK WITH THEIR PAST.

5. RESULTS TO DATE: THE AUGUST 11 ANNOUNCEMENT THAT 11,646 CASES HAD BEEN DECIDED TO DATE IN THIS PROGRAM MADE NO MENTION OF TOTAL NUMBER OF PRISONERS
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RELEASED NOR DID IT INDICATE THAT THE PROGRAM WAS COMPLETED, ALTHOUGH THAT WAS THE IMPLICATION. OVER THE PAST FEW DAYS, THE MEDIA HAS NOT CARRIED ANY ANNOUNCEMENTS OF FURTHER STEPS IN THIS CAMPAIGN, WHICH COULD INDICATE THAT THIS PHASE OF THE REGIME'S JUDICIAL REFORM EFFORT IS OVER. AS FOR NUMBERS RELEASED, PRIME MINISTER NOOR MOHAMMAD TARAKI STATED IN HIS JULY 24 "STATE OF THE REVOLUTION" SPEECH THAT 5,500 PRISONERS HAD BEEN SET FREE UNDER THIS PROGRAM, WHILE MINISTER JANUZZANI TOLD THE AMBASSADOR ON AUGUST 1 THAT 7,000 MEN AND WOMEN WOULD EVENTUALLY BE RELEASED (REFTEL). WHATEVER THE EXACT FIGURE MAY TURN OUT TO BE, THE REVOLUTIONARY REGIME HAS CERTAINLY MADE A SIGNIFICANT DENT IN THE PRISON POPULATION OF THIS COUNTRY, AND HAS PROBABLY MADE A CONSIDERABLE POSITIVE IMPACT ON THE GENERAL AFGHAN POPULATION, MANY OF WHOM WERE CONVINCED THAT, UNDER PREVIOUS REGIMES, A PRISON SENTENCE AMOUNTED TO LITTLE MORE THAN A DEATH SENTENCE, OR EVEN WORSE. SOME MEMBERS OF THE POPULATION, HOWEVER, HAVE EXPRESSED RESERVATIONS OVER THIS MASSIVE RELEASE OF ORDINARY CRIMINALS AND THE POSSIBILITY THAT MANY OF THEM WILL RETURN TO A LIFE OF CRIME.

6. SOME OBSERVERS BELIEVE THAT THIS CAMPAIGN WAS NOT ACTUALLY UNDERTAKEN FOR THE ALTRUISTIC MOTIVES EXPRESSED IN THE MEDIA OR BY GOVERNMENTAL REPRESENTATIVES, BUT WAS NOTHING MORE THAN A GENERAL HOUSECLEANING OF ORDINARY CRIMINALS IN ORDER TO MAKE ROOM FOR THIS GOVERNMENT'S "INEVITABLE" MASS ARRESTS OF "ENEMIES OF THE REVOLUTION". EVEN THOUGH WE WOULD NOT DISMISS THE REGIME'S "HUMANITARIAN" ARGUMENT OUT OF HAND, A MORE CYNICAL VIEW MAY HAVE

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SOME MERIT, ESPECIALLY IN VIEW OF THE PERSISTENT REPORTS THAT THE GOVERNMENT CONTINUES TO ARREST "COUNTERREVOLUTION PLOTTERS" AND OTHERS WHO, FOR SOME REASON, HAVE INCURRED THE OFFICIAL WRATH. NEVERTHELESS, JUDICIAL REFORM IS A MAJOR PLANK OF THE REGIME'S REFORM PROGRAM, AND THIS INITIAL EFFORT CONSTITUTES, FROM THE HUMAN RIGHTS POINT OF VIEW, AN IMPRESSIVE FIRST STEP IN MODIFYING THE OFTIMES HARSH AND PRIMITIVE JUSTICE METED OUT IN THIS COUNTRY.

7. STATUS OF POLITICAL PRISONERS REMAINS UNCERTAIN: TREATMENT OF PURELY POLITICAL PRISONERS, HOWEVER, REMAINS A MAJOR QUESTION MARK. MEMBERS OF THE FORMER FULING FAMILIES, AS WELL AS THOSE ASSOCIATED WITH PREVIOUS GOVERNMENTS, WHO WERE ARRESTED AND ARE BEING HELD AT PUL-I-CHARKI PRISON, JUST OUTSIDE KABUL, HAVE NOT YET BEEN RELEASED OR PERMITTED TO LEAVE THE COUNTRY. THE PREVIOUS REGIME'S POLITICAL PRISONERS (WHO WE BELIEVE WERE MOSTLY EXTREME RIGHTIST MEMBERS OF THE MUSLIM BROTHERHOOD) WERE PROBABLY NOT INCLUDED IN THE AMNESTY PROGRAM, AND UNCONFIRMED RUMORS CONTEND THAT MANY OF THESE INDIVIDUALS HAVE BEEN ELIMINATED BECAUSE THEY WERE ALSO POTENTIAL THREATS TO THIS LEFTIST REGIME.

8. FURTHER STEPS ARE PROMISED: WHAT FURTHER STEPS THE REGIME WILL TAKE IN THE JUDICIAL REFORM FIELD REMAIN TO BE SEEN. THE ADOPTION OF A NEW CONSITUTION HAS BEEN HINTED AT, BUT SUCH A MAJOR DOCUMENT COULD TAKE MONTHS IF NOT YEARS TO PREPARE. NEVERTHELESS, TARAHI, IN HIS JULY 24 SPEECH, PRAISED THE "PROCEDURAL AND ADMINISTRATIVE REFORMS" TAKEN THUS FAR, AND HE CONCLUDED THAT "WE WILL SOON WITNESS OTHER USEFUL AND BASIC STEPS TAKEN IN THIS DIRECTION". IN VIEW OF THE HARSHNESS OF LIFE IN AFGHANISTAN, AND THE TRADITIONAL SKEPTICISM WITH WHICH MUCH OF THE

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POPULATION REGARDS ANY GOVERNMENT, THE ABILITY OF TARAHI AND HIS COLLEAGUES TO DELIVER ON THESE PROMISES AND OTHERS COULD GO A LONG WAY IN DETERMINING THE EVENTUAL EXTENT OF SUPPRCT WHICH THIS REGIME CAN BUILD AMONG THE MASSES.
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